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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**



Application Number: 09/909,206
Filing Date: July 20, 2001
Appellant(s): KOTZIN ET AL.

Roland Bowler
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 13 June 2005 appealing from the Office action mailed 03 November 2004.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) Grounds of Rejection Applicable to the Appealed Claims**

The following ground(s) of rejection are applicable to the appealed claims:

A. **Claim Rejections - 35 USC § 102**

**Claims 1-13** and **15-20** are rejected under 35 U.S.C. 102(b) as being anticipated by **Spaur et al.** (hereinafter Spaur) (**US 6,516,192 B1**).

Regarding **claim 1**, Spaur discloses a method in a mobile unit (10) which reads on the claimed "wireless communication device" for dynamically selecting communication services from different networks which reads on the claimed "plurality of service providers" capable of providing communication services to the mobile wireless communication device (see col. 5, line 40 - col. 6, line 19; col. 6, lines 52-67; col. 13, lines 13, 49-51; Figs. 1-4), where the mobile unit (10) includes the communication system (10) that has a network selection apparatus (14) for selecting to communicate with different networks according to the services provided, comprising:

establishing communication objectives (i.e., applications) at the device (10) for corresponding communications to be executed by the device (10) (see col. 10, lines 41-61; Figs. 1-3), where with reference to FIGS. **2-4**, additional details of the analysis

involving the channel selection process. FIGS. **2A-2B** illustrate a flow diagram of steps taken in selecting a network channel (i.e., communication service). The description of this flow diagram will be made in the context of a particular application (defined as application A) (i.e., communication objective) that has certain application requirements (i.e., factors or characteristics), as set out in the chart of FIG. **3**. In particular, application A requirements include a number of factors with quantitative values. These factors are bandwidth, security, packet loss, packet latency, packet jitter and cost. As indicated in FIG. **2A**, the application requirements for application A are obtained in accordance with step **100**. ;

selecting one of the communication services (i.e., channels) for each communication to be executed by the device based on the corresponding established communication objectives (i.e., applications) (see col. 10, line 60 - col. 12, line 12; Figs. 1-4), where as indicated in FIG. **2A**, the application requirements for application A (i.e., communication objective) are obtained in accordance with step **100** and the corresponding operating parameters for each network channel **34***a*-**34***n* (i.e., communication services) are obtained at step **104**. The link selector **64** checks or compares each application requirement with the corresponding parameter, for each such network channel, at step **108**. In view of the given weightings, the slower, less expensive channel **34***b* is deemed to be more suitable for conducting the information transfer associated with application A. ;

utilizing the selected communication service (i.e., channels) at least for the communication whose communication objective (i.e., applications) formed the basis upon which the communication service (i.e., channels) was selected (see col. 10, lines 24-28;

Fig. 1), where after analysis is completed, the link selector **64** communicates with protocol stack **26** in order to modify its configuration so that protocol stack **26** generates the correct network address or addresses for the selected network channel(s).

Regarding **claim 2**, Spaur discloses the method of claim 1, assessing the plurality of communication services (i.e., channels) relative to the communication objective (i.e., applications) for each communication before selecting one of the communication services (see col. 10, lines 60-66; Figs. 1 and 2), where as indicated in FIG. **2A**, the application requirements for application A (i.e., communication objective) are obtained in accordance with step **100** and the corresponding operating parameters for each network channel **34***a*-**34***n* (i.e., communication services) are obtained at step **104**. The link selector **64** checks or compares each application requirement with the corresponding parameter, for each such network channel, at step **108**.

Regarding **claim 3**, Spaur discloses the method of Claim 1, assessing a plurality of communication services (i.e., channels) relative to the communication objective (i.e., applications) for each communication during a communication (see col. 2, lines 9-18; col. 10, lines 33-40; col. 10, lines 63-66), where in addition to an initial selection of a network channel (i.e., communication services) when the information transfer is started, the system is able to dynamically adapt to situations where the currently used network channel (i.e., communication service) becomes unavailable or inappropriate and the transfer of information has not yet been completed. Similarly, the system is able to switch network channels (i.e., communication services) within the course of a particular information transfer or session when it is determined that a more advantageous channel

(i.e., communication service) is now available. When appropriate or necessary, the link selector **64** can also be used to obtain additional bandwidth from a number of network channels (i.e., communication services) in order to provide more bandwidth for a given application. The link selector **64** is further available for dynamically changing the current network channel (i.e., communication service) being utilized for a transfer to a different network channel (i.e., communication service), based on changing communication and economic conditions. The link selector **64** checks or compares each application requirement (i.e., communication objective) with the corresponding parameter, for each such network channel (i.e., communication service).

Regarding **claim 4**, Spaur discloses the method of Claim 1, receiving service information (i.e., operating parameters) from the plurality of service providers (inherent in Spaur as the originators of the communication services (i.e., channels)) at the device (10), assessing the communication services (i.e., channels) by comparing the service information (i.e., operating parameters) received from the corresponding service providers at the device (see col. 9, line 37 - col. 10, line 2; col. 10, lines 15-24; Fig. 1), where the network channel selection apparatus **14** also includes a link controller/monitor **50** that is operatively connected to the network interfaces **30** for receiving information there-from and making requests thereto. In particular, the link controller/monitor **50** takes responsibility for the control and status of the network channels **34***a*-**34***n*. The results of any such monitoring process are stored in the communication link database **54**. This database **54** also contains information or data related to the operating parameters (i.e., service information) of the network channels **34***a*-**34***n* (i.e., communication

services). These include, for example, coverage maps, pricing schedules that may be location and time dependent, schedules of availability of network channels, estimated transfer error rates and the type of channel monitoring to be conducted. The network channel selection apparatus **14** further includes a link selector **64** that functions as the main controller of the system and includes one or more processing units in connection with the analyzing process for selection of one or more network channels through which information is to be transferred for the current application. With regard to conducting the analysis, the link selector **64** utilizes the application requirements for the particular application, together with the operating parameters for the network channels **34*a*-34*n*** (i.e., communication services).

Regarding **claim 5**, Spaur discloses the method of Claim 4, querying the plurality of service providers (inherent in Spaur as the originators of the communication services (i.e., channels)) for service information before receiving the service information (i.e., operating parameters) (see col. 9, lines 25-42; col. 10, lines 15-40; col. 5, line 40 - col. 6, line 19; col. 6, lines 52-67; Figs. 2-4), where the user interactivity can selectively choose the services of the different networks in which the before receiving would be inherent as the status of the network information can change or be updated based on the latest results. The network channel selection apparatus **14** also includes a link controller/monitor **50** that is operatively connected to the network interfaces **30** for receiving information there-from and making requests thereto. In particular, the link controller/monitor **50** takes responsibility for the control and status of the network channels **34*a*-34*n*** (i.e., communication services).

Regarding **claim 6**, Spaur discloses the method of Claim 4, storing service information (i.e., operating parameters) received from the service providers (inherent in Spaur as the originators of the communication services (i.e., channels)) at the device (10), updating service information (i.e., operating parameters) at the device (10) (see col. 9, line 55 - col. 10, line 2; col. 10, lines 3-14), where the link controller/monitor **50** has access to communication link database **54**. The results of any such monitoring process are stored in the communication link database **54**. This database **54** also contains information or data related to the operating parameters (i.e., service information) of the network channels **34***a*-**34***n* (i.e., communication services). These include, for example, coverage maps, pricing schedules that may be location and time dependent, schedules of availability of network channels, estimated transfer error rates and the type of channel monitoring to be conducted. The network channels **34***a* – **34***n* (i.e., communication services) also have dynamic characteristics or properties associated therewith. That is, during use or operation of a particular network channel, certain parameters (i.e., service information) can be checked to determine whether or not each is meeting its expected operating function. For example, retransmit requests per packet (packet loss), round trip packet travel time (packet latency), variation in inter-packet travel time (packet jitter), and signal strength are measured. The results of such measurements are maintained in the communication link database **54**.

Regarding **claim 7**, Spaur discloses the method of Claim 1, establishing a communication objective (i.e., application) by specifying whether a communication to be executed by the device (10) is a data communication or a voice communication (see col.

10, lines 41-61; col. 6, lines 37-51; Figs. 1-3), where with reference to FIGS. **2-4**, additional details of the analysis involving the channel selection process. FIGS. 2A-2B illustrate a flow diagram of steps taken in selecting a network channel (i.e., communication service). The description of this flow diagram will be made in the context of a particular application (defined as application A) (i.e., communication objective) that has certain application requirements (i.e., factors or characteristics), as set out in the chart of FIG. **3**. In particular, application A requirements include a number of factors with quantitative values. These factors are bandwidth, security, packet loss, packet latency, packet jitter and cost. As indicated in FIG. **2A**, the application requirements for application A are obtained in accordance with step **100**.

Regarding **claim 8**, Spaur discloses the method of Claim 1, establishing communication objectives (i.e., applications) by specifying at least one characteristic (i.e., factor) of a communication to be executed (see col. 10, lines 41-61; Figs 1-3), where with reference to FIGS. **2-4**, additional details of the analysis involving the channel selection process. FIGS. 2A-2B illustrate a flow diagram of steps taken in selecting a network channel (i.e., communication service). The description of this flow diagram will be made in the context of a particular application (defined as application A) (i.e., communication objective) that has certain application requirements (i.e., factors or characteristics), as set out in the chart of FIG. **3**. In particular, application A requirements include a number of factors with quantitative values. These factors are bandwidth, security, packet loss, packet latency, packet jitter and cost. As indicated in

FIG. **2A**, the application requirements for application A are obtained in accordance with step **100**.

Regarding **claim 9**, Spaur discloses the method of Claim 8, assessing communication services (i.e., channels) by determining which communication service (i.e., channels) optimally satisfies the specified characteristics (i.e., factors or characteristics) of the communication to be executed (see col. 10, line 60 - col. 12, line 12; Figs. 1-4), where as indicated in FIG. **2A**, the application requirements for application A (i.e., communication objective) are obtained in accordance with step **100** and the corresponding operating parameters for each network channel **34***a*-**34***n* (i.e., communication services) are obtained at step **104**. The link selector **64** checks or compares each application requirement with the corresponding parameter, for each such network channel (i.e., communication service), at step **108**. In view of the given weightings, the slower, less expensive channel **34***b* is deemed to be more suitable for conducting the information transfer associated with application A.

Regarding **claim 10**, Spaur discloses the method of Claim 1, establishing communication objectives (i.e., applications) by weighting at least one characteristic (i.e., requirement or factor) for each communication to be executed (see col. 11, line 27 - line 32; Figs. 2B and 4), where at step **128**, the associated weighting vector for each such requirement (i.e., characteristic or factor) for application A is obtained. For example, the associated weighting vector for the bandwidth application requirement (or factor) is 0.25. Each such weighting vector for application A requirements is obtained from the application requirements database **38**.

Regarding **claim 11**, Spaur discloses the method of Claim 10, assessing the communication services (i.e., channels) by comparing the weighted characteristics (i.e., requirement or factor) of each communication to be executed to corresponding service characteristics of each of the communication services (i.e., channels) (see col. 11, lines 32-66; Figs. 3 and 4), where at step **132**, each such weighting vector is combined with its associated parameter value using a suitability function. The associated parameter value can be a recently measured value for a dynamically changing parameter, such as packet loss, latency and/or jitter. The suitability function defines the relationship among the parameters (i.e., characteristics) for a particular channel and their associated weighting vector. Step **140** is performed by which each of the suitability values that was determined is compared to each other.

Regarding **claim 12**, Spaur discloses the method of Claim 11, selecting a communication service (i.e., channels) having service characteristics (i.e., requirement or factor) that most closely correlate with the weighted characteristics of the communication to be executed (see col. 11, line 47 - col. 12, line 12; Figures 2B, 3, and 4), where with respect to the network channels **34***a*, **34***b* that were found to be acceptable for selection. In view of the given weightings, the slower, less expensive channel **34***b* is deemed to be more suitable for conducting the information transfer associated with application A.

Regarding **claim 13**, Spaur discloses a method in a mobile wireless communication device (10) for selecting communication services (i.e., channels) available to the mobile wireless communication device (10) (see col. 5, line 40 - col. 6, line 19; col. 6, lines 52-67; col. 13, lines 13, 49-51; Figs. 1-4), where the mobile unit (10)

includes the communication system (10) that has a network selection apparatus for selecting to communicate with different networks according to the services provided, comprising:

establishing a communication objective (i.e., application) at the device (10) by identifying a characteristic (i.e., requirement or factor) of a communication to be executed by the device (10) (see col. 10, lines 41-61; Figs 1-3), where with reference to FIGS. **2-4**, additional details of the analysis involving the channel selection process. FIGS. **2A-2B** illustrate a flow diagram of steps taken in selecting a network channel (i.e., communication service). The description of this flow diagram will be made in the context of a particular application (defined as application A) (i.e., communication objective) that has certain application requirements (i.e., factors or characteristics), as set out in the chart of FIG. **3**. In particular, application A requirements include a number of factors with quantitative values. These factors are bandwidth, security, packet loss, packet latency, packet jitter and cost. As indicated in FIG. **2A**, the application requirements for application A are obtained in accordance with step **100**. ;

assessing a plurality of communication services based on communication service information, received from a plurality of at least two different networks (as well as channels or links) which reads on the claimed "communication service providers", by comparing the identified characteristic of the communication to be executed with a corresponding service characteristic of each of the plurality of communication services (i.e., channels) (see col. 6, lines 52-67; col. 9, line 37 - col. 10, line 40; col. 10, lines 60-66; Figs. 2-4), where as indicated in FIG. **2A**, the application requirements (i.e.,

characteristic) for application A (i.e., communication objective) are obtained in accordance with step **100** and the corresponding operating parameters for each network channel **34***a*-**34***n* (i.e., communication services) are obtained at step **104**. The link selector **64** checks or compares each application requirement with the corresponding parameter, for each such network channel, at step **108**. ;

selecting a communication service (i.e., channel) from the plurality of communication services (i.e., channel) having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device (10) (see col. 11, line 47 - col. 12, line 12; Figs. 2B, 3, and 4), where with respect to the network channels **34***a*, **34***b* (i.e., communication services) that were found to be acceptable for selection. In view of the given weightings, the slower, less expensive channel **34***b* (i.e., communication service) is deemed to be more suitable for conducting the information transfer associated with application A (i.e., communication objective).

Regarding **claim 15**, Spaur discloses the method of Claim 13, selecting a communication service (i.e., channel) before executing the communication, and selecting a different communication service (i.e., channel) during the communication (see col. 11, line 47 - col. 12, line 12; col. 2, lines 9-18; col. 10, lines 33-40; col. 10, lines 63-66; Figs. 2B, 3, and 4), where with respect to the network channels **34***a*, **34***b* that were found to be acceptable for selection. In view of the given weightings, the slower, less expensive channel **34***b* is deemed to be more suitable for conducting the information transfer associated with application A. In addition to an initial selection of a network channel (i.e., communication services) when the information transfer is started, the system is able

to dynamically adapt to situations where the currently used network channel (i.e., communication service) becomes unavailable or inappropriate and the transfer of information has not yet been completed. Similarly, the system is able to switch network channels (i.e., communication services) within the course of a particular information transfer or session when it is determined that a more advantageous channel (i.e., communication service) is now available. When appropriate or necessary, the link selector **64** can also be used to obtain additional bandwidth from a number of network channels (i.e., communication services) in order to provide more bandwidth for a given application. The link selector **64** is further available for dynamically changing the current network channel (i.e., communication service) being utilized for a transfer to a different network channel (i.e., communication service), based on changing communication and economic conditions. The link selector **64** checks or compares each application requirement (i.e., communication objective) with the corresponding parameter, for each such network channel (i.e., communication service).

Regarding **claim 16**, Spaur discloses the method of Claim 13, weighting the one or more identified characteristics (i.e., requirements or factors) of the communication to be executed (see col. 11, line 27 - line 32; Figs. 2B and 4), where establishing communication objectives (i.e., applications) by weighting at least one characteristic (i.e., requirement or factor) for each communication to be executed, as disclosed by, at step **128**, the associated weighting vector for each such requirement (i.e., characteristic or factor) for application A is obtained. For example, the associated weighting vector for

the bandwidth application requirement (or factor) is 0.25. Each such weighting vector for application A requirements is obtained from the application requirements database **38**. ;

assessing the communication services (i.e., channels) by comparing the weighted characteristics of the communication (i.e., application) to be executed to similarly weighted corresponding characteristics (i.e., parameter) of each of the communication services (i.e., channels) (see col. 11, lines 32-66; Figs. 3 and 4), where at step **132**, each such weighting vector is combined with its associated parameter value using a suitability function. The associated parameter value can be a recently measured value for a dynamically changing parameter, such as packet loss, latency and/or jitter. The suitability function defines the relationship among the parameters (i.e., characteristics) for a particular channel and their associated weighting vector. Step **140** is performed by which each of the suitability values that was determined is compared to each other.

Regarding **claim 17**, Spaur discloses a mobile wireless communication device (10), comprising:

means (38) for identifying a characteristic (i.e., requirement or factor) of a communication (i.e., application) to be executed by the device (see col. 10, lines 41-61; Figs. 1-4), where in the context of a particular application (defined as application A) (i.e., communication) that has certain application requirements (i.e., characteristic), as set out in the chart of FIG. **3**. In particular, application A requirements include a number of factors with accompanying quantitative values. These factors are bandwidth, security, packet loss, packet latency, packet jitter and cost. The link selector **64** obtains this

information from the application requirements database **38** through the application requirements controller **42**. ;

means (64) for assessing service information received from a communication service provider (e.g., network, channel, or link) by comparing the identified characteristic (i.e., factor or requirement) of the communication (i.e., application) to be executed with corresponding service characteristics (i.e., operating parameter) of each of a plurality of communication services (i.e., channels) (see col. 6, lines 52-67; col. 9, line 37 - col. 10, line 40; col. 10, line 60 - col. 11, line 11; col. 11, line 47 - col. 12, line 12; Figs. 1-4), where as indicated in FIG. **2A**, the application requirements for application A are obtained in accordance with step **100** and the corresponding operating parameters for each network channel **34***a* – **34***n* (i.e., communication service) are obtained at step **104**. The link selector **64** checks or compares each application requirement (i.e., characteristic) with the corresponding parameter (i.e., service characteristic), for each such network channel (i.e., communication service). After all network channels **34***a* – **34***n* (i.e., communication services) have been analyzed and all channels (i.e., communication services) that have met all the application (i.e., communication) requirements (i.e., characteristics) are deemed to be network channels available for selection. ;

means for selecting a communication service (i.e., channel) from the communication service provider (e.g., network, channel, or link) having the service characteristic (i.e., operating parameter) that correlates most closely with the identified characteristic (i.e., requirement) of the communication (i.e., application) to be executed by the device (see col. 6, lines 52-67; col. 9, line 37 - col. 10, line 40; col. 11, line 47 - col. 12, line 12;

Figs. 1-4), where the network channel selection apparatus **14** also includes a link controller/monitor **50** that is operatively connected to network interfaces **30** for receiving information and takes responsibility for control and status of network channels **34***a* - **34***n* has access to a communication link database **54**. This database **54** also contains information or data related to operating parameters (i.e., service characteristic) of the network channels **34***a* – **34***n*. The network channel selection apparatus **14** further includes a link selector **64** that functions as the main controller of the system and includes one or more processing units in connection with the analyzing process for the selection of one or more network channels (i.e., communication services) through which information is to be transferred for the current application (i.e., communication objective). With regard to conducting the analysis, the link selector **64** utilizes the application requirements (i.e., characteristics) for the particular application (i.e., communication objective), together with the operating parameters (i.e., service information) for the network channels **34***a*-**34***n*.

Regarding **claim 18**, Spaur discloses the device of **claim 17**, means (50) for receiving the service information (i.e., operating parameters) from the communication service provider at the device (10) (see col. 9, lines 37-42; Fig. 1), where the network channel selection apparatus **14** also includes a link controller/monitor **50** that is operatively connected to the network interfaces **30** for receiving information there-from and making requests thereto. In particular, the link controller/monitor **50** takes responsibility for the control and status of the network channels **34***a*-**34***n* (i.e., communication services).

Regarding **claim 19**, Spaur discloses the device of claim 18, means (50) for requesting service information (i.e., operating parameters) from the communication service provider (i.e., channels) (see col. 9, lines 37-42; Fig. 1), where the network channel selection apparatus **14** also includes a link controller/monitor **50** that is operatively connected to the network interfaces **30** for receiving information there-from and making requests thereto. In particular, the link controller/monitor **50** takes responsibility for the control and status of the network channels **34***a* - **34***n* (i.e., communication services).

Regarding **claim 20**, Spaur discloses the device of claim 17, means (64) for weighting the identified characteristic (i.e., requirement) of the communication (i.e., application) to be executed, means (64) for comparing the weighted characteristic of the communication (i.e., application) to be executed to corresponding service characteristics (i.e., parameter) of the service (i.e., channel) information (see col. 10, lines 15-24; col. 11, lines 12-66; Figs. 1-4), where the network channel selection apparatus **14** further includes a link selector **64** that functions as the main controller of the system and includes one or more processing units in connection with the analyzing process for selection of one or more network channels through which information is to be transferred for the current application. With regard to conducting the analysis, the link selector **64** utilizes the application requirements for the particular application, together with the operating parameters for the network channels **34***a*-**34***n* (i.e., communication services). With reference to FIG. **4** as well, the description will continue regarding the operation of the link selector **64**, the associated weighting vector for each such requirement (i.e.,

characteristic) for application A (i.e., communication objective), each such weighting vector is combined with its associated parameter (i.e., service characteristic) value using a suitability function and is performed by which each of the suitability values that was determined is compared to each other.

**(10) Response to Argument**

The Examiner's response to the arguments of the brief concerning the art rejection claims 1-13 and 15-20 are as follows:

A. Response to Argument (Discussion of Claim 1 on pg. 4, 2nd paragraph)

Regarding appellant's argument of claim 1 presented in the argument on pg. 4, 2nd paragraph, "The communication system (10) of Spaur is not a "...mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device...." The communication system (10) of Spaur is a network infrastructure entity that sends data to a remote station...", the Examiner respectfully disagrees.

The Examiner maintains that Spaur discloses "...a mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device..." (see col. 5, line 36 - col. 6, line 19; col. 6, lines 52-67; col. 13, lines 13, 49-51; Figs. 1-4), where the mobile unit (10) includes the communication system (10) that has a network selection apparatus (14) for selecting to communicate with

different networks according to the services provided. The mobile unit (10) clearly includes the communication system (10) (see col. 5, lines 36-42; col. 13, lines 49-51; Fig. 1), where the mobile unit (10) can dynamically select communication services (e.g., channels or networks) by using the terminal stack (12) and network channel selection apparatus (14) (see col. 8, lines 11-14; col. 10, lines 36-40; Figs. 2B "ref. 144" and 3-4). In addition, the application module (18) provides application requirements (e.g., economic factors and transfer parameters) that can effect channel selection (see col. 5, lines 52-65; col. 6, lines 52-67; col. 10, lines 36-66; Figs. 2B-4). Spaur's mobile unit clearly meets the mobile wireless communication device as claimed.

B. Response to Argument (Discussion of Claim 13 on pg. 11, 2nd paragraph)

Regarding appellant's argument of claim 13 presented in the argument on pg. 11, 2nd paragraph, "...Spaur does not assess service information at the mobile unit...", the Examiner respectfully disagrees.

The Examiner maintains that Spaur discloses "...assess service information at the mobile unit..." (see col. 5, line 36 - col. 6, line 19; col. 6, lines 52-67; col. 13, lines 13, 49-51; Figs. 1-4), where the mobile unit (10) includes the communication system (10) that has a network selection apparatus (14) for selecting to communicate with different networks according to the services provided. The mobile unit (10) clearly includes the communication system (10) (see col. 5, lines 36-42; col. 13, lines 49-51; Fig. 1), where the mobile unit (10) can dynamically select communication services (e.g., channels or networks) by using the terminal stack (12) and network channel selection apparatus (14)

(see col. 8, lines 11-14; col. 10, lines 36-40; Figs. 2B "ref. 144" and 3-4). In addition, the application module (18) provides application requirements (e.g., economic factors and transfer parameters) that can effect channel selection (see col. 5, lines 52-65; col. 6, lines 52-67; col. 10, lines 36-66; Figs. 2B-4). Spaur's mobile unit clearly meets the mobile wireless communication device as claimed.

C. Response to Argument (Discussion of Claim 17 on pg. 13, 2nd paragraph)

Regarding appellant's argument of claim 17 presented in the argument on pg. 13, 2nd paragraph, "...Spaur does not assess service information at the mobile unit...", the Examiner respectfully disagrees.

The Examiner maintains that Spaur discloses "...assess service information at the mobile unit..." (see col. 5, line 36 - col. 6, line 19; col. 6, lines 52-67; col. 13, lines 13, 49-51; Figs. 1-4), where the mobile unit (10) includes the communication system (10) that has a network selection apparatus (14) for selecting to communicate with different networks according to the services provided. The mobile unit (10) clearly includes the communication system (10) (see col. 5, lines 36-42; col. 13, lines 49-51; Fig. 1), where the mobile unit (10) can dynamically select communication services (e.g., channels or networks) by using the terminal stack (12) and network channel selection apparatus (14) (see col. 8, lines 11-14; col. 10, lines 36-40; Figs. 2B "ref. 144" and 3-4). In addition, the application module (18) provides application requirements (e.g., economic factors and transfer parameters) that can effect channel selection (see col. 5, lines 52-65; col. 6, lines

52-67; col. 10, lines 36-66; Figs. 2B-4). Spaur's mobile unit clearly meets the mobile wireless communication device as claimed.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

**(12) Conclusion**

For the above reasons, it is believed that the rejections using Spaur should be sustained.

Respectfully submitted,

/WJD,JR/

Willie J. Daniel, Jr.
WJD,JR

26 October 2006

Conferees:

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